



An
Bord
Pleanála

Inspector's Report

ABP-314421-22

Development	Construction of telecommunications support structure.
Location	Cloghrystick, Milford, Co. Carlow.
Planning Authority	Carlow County Council
Planning Authority Reg. Ref.	21400
Applicant(s)	Signal Infrastructure Ltd
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Rachel Kate Sheppard
Observer(s)	None
Date of Site Inspection	2 nd of October 2023
Inspector	Angela Brereton

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1.0 Site Location and Description

- 1.1. The application site is located in the rural area to the northwest of junction 6 (Carlow South) of the M9 and to the west of the junction (Milford crossroads) of the L1003 with the R448 (Kilkenny Road). It is on the northern side of the L1003 and in the townland of Cloghrystick, Milford c.5km to the south of Carlow town.
- 1.2. The site formerly formed part of an agricultural field bounded by mature hedgerows and trees to the north and west. It is noted (documentation on file) that the subject site and landholding (as outlined in blue on the site location map) have been filled in with imported soil and stone (gravel) material associated with planning reference PL19/176. There is a small drainage ditch along the northern boundary of the proposed development site.
- 1.3. There is a gated access to the landholding, which fronts the local road and is proximate to the fenced off site for Keystone Supplies. However, the proposed access route to the site is to be from an existing field gate further to the southwest. There is a hedgerow along the roadside boundary and along the northern and western site boundaries.
- 1.4. Located further to the east of the site fronting the same roadside is a commercial yard and business operated by Keystone Supplies Ltd. This is fenced off from the subject landholding and site. Milford GAA sports ground is on the opposite side of the road. There are a number of one-off houses located on the opposite side of the road to the southeast and southwest of the site.

2.0 Proposed Development

- 2.1. Permission is sought to Construct a 30m multi-user lattice telecommunications support structure, carrying antenna and dishes enclosed within a 2.4m high palisade fence compound together with associated ground equipment cabinets and associated site works including new access track and to replace existing gated access situated at Cloghrystick, Milford, Co. Carlow. The installation is to form part of eir Mobile telecommunications network.
- 2.2. A Natura Impact Statement (N.I.S) accompanies the application.

- 2.3. A Planning Report to provide a description and rationale for the proposed development has been submitted on behalf of Cignal Infrastructure Ltd.
- 2.4. A letter has been submitted from Keystone Supplies Limited, giving permission as the landowners for Cignal Infrastructure Limited to make this application.

3.0 **Planning Authority Decision**

3.1. **Decision**

On the 26th of July 2022, Carlow County Council granted permission for the proposed development subject to 14no. conditions. These generally relate to infrastructural and construction management issues.

Condition no.3 is as follows:

The applicant shall ensure that all mitigation measures outlined in the Natura Impact Statement submitted with the application of 21st October 2021, are adhered to and implemented in full.

Reason: In the interest of the protection of the environment.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The Planner had regard to the locational context of the site, planning history and policy and to the submissions made. Their Assessment included the following:

- They considered that having regard to the documentation submitted and to the planning history that the application has satisfactorily demonstrated a requirement for the proposed telecommunications structure at this location in accordance with the Carlow County Development Plan 2015-2021.
- The proposed mast will not impact significantly on the visual or residential amenities of the area.
- They note that having regard to the planning history (PL20/328 & PL309963-21) the applicant has prepared and submitted a Stage 2 AA. They consider that in light of the conclusions of the assessment of the NIS for the

implications for the site, in view of the conservation objectives and best scientific knowledge, that it has been ascertained that the project, alone or in combination with other projects, will not adversely affect the integrity of the River Barrow and River Nore SAC. (They refer to the AA Conclusion Statement attached).

Further Information request

The Planning Authority recommended that F.I be sought to in summary, include the following:

- The application site is located on land which was the subject of Planning Ref. 19-176 which provided in summary for the importation and recovery of soil and stones. They noted that the subject importation of material is substantially completed, with a new gravel surface in place.
- They were requested to submit certification and as built drawings confirming that the surface water management system has been constructed in accordance with the details approved under Reg.Ref/19/176.
- To liaise with the Environment Section of the Council regarding full adherence to the requirements of the relevant Certification of Registration associated with Planning Ref. PL19/176 under the Waste Management Act which is applicable to the proposed site.
- To address the issues raised in the Third Party Submission in their F.I response.

Further Information response

Indigo Engineering & Digital Futures response on behalf of the applicant includes the following:

- They submit an As Build and signed letter of compliance - from the Site Providers engineers consultants confirming that the site has been constructed in accordance with the details approved under Planning Ref.19/176.
- They note a letter they received from the site providers consultants Environment & Water Services section of the Council. As outlined, they provide that no adverse impacts have been detected during site inspections

and confirm that works carried out are in accordance with the Certificate of Registration (COR-CW-19-05-02) associated with the Planning Permission (PL19-176) issued to the site by the Council.

- Details included in the application and this F.I response are considered to be sufficient to address concerns relating to groundwater and non-compliance with planning permission (PL19-176).
- They attach a declaration letter from their engineers that all designs and installations adhere to the relevant engineering principles, standards and criteria. Given the nature and extent of the works anticipated for the installation this is considered to be reasonable.
- The proposed development will provide for improved telecommunications and broadband in the area. They also refer to the Inspector's Report regarding this issue (ABP-309963-21 refers).
- They submit that the details and documents submitted as part of this F.I response have addressed the issues raised by the Planning Authority. That the development is in accordance with National, Regional and Local planning policy, actively assisting in achieving the aims and objectives of the Development Plan and they request that permission be granted.

Planner's response

The Planner had regard to the F.I submitted and to the Environment Section's comments. They noted that overall, they have no objection, subject to conditions. They had regard to the third party response to the F.I submission and provide that all third party comments received with this application were reviewed and considered in the application.

They concluded that having regard to planning policy and guidelines relating to Telecommunications Antennae and Support Structures, the Carlow CDP 2022-2028, the general topography and landscape features, and the existing character and pattern of development in the vicinity of the site, that subject to compliance with conditions, that the proposed development would not seriously injure the visual or residential amenities of the area and would not be prejudicial to public health. They recommended that permission be granted subject to conditions.

3.3. Other Technical Reports

Environment Section

They note that the application site is located within the facility permitted under PL19-176 which can import soil & stone. This activity is also regulated by a subsequent Certificate of Registration under the Waste Management Act. The waste facility will be subject to compliance checks on completion for planning and waste legislation conditions. They considered the application premature at this time.

Subsequently they had regard to the documentation submitted in response to the Council's F.I request and recommended conditions.

SE – Environment

They have no objection as the development is not affecting, public mains water, public foul mains and public surface water.

Transportation Department

No Objections subject to conditions.

District Engineer

No Objections subject to conditions.

Water Services Department

No objection no impact on Irish Water Assets area not serviced by Irish Water.

Carlow Fire Authority

They provide that they have no response in this instance as the works as described do not relate to the construction of a building.

3.4. Prescribed Bodies

Dept. of the Environment, Climate and Communications

The Geological Survey Ireland Division of this Department, provide that they have no specific comment or observations to make.

Irish Water

They have no objection and recommend conditions.

3.5. Third Party Observations

Submissions have been made, including to the F.I submitted, expressing concerns about the proposed development. It is noted that this is the subsequent third party appellant and their concerns have been noted in the Planning Reports and are included in the context of the Grounds of Appeal and in the Assessment below.

4.0 Planning History

ABP-309963-21 - Reg.Ref. 20/328 – permission was granted by the Council for a 30m high telecoms mast, fencing and associated works at Cloghrystick, Milford, County Carlow. This was subsequently refused following a third party appeal to the Board for the following reason:

The Board is not satisfied on the basis of the documentation submitted with the application and appeal that there is no hydrological connection between the application site and the River Barrow and River Nore SAC (Site Code:002162) or that the proposed development would not give rise to a release of contaminants into the water environment in the catchment of the River Barrow, in the absence of a Natura Impact Statement, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on the Barrow and Nore SAC (002162) or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.

This related to the same site as the subject site.

Reg.Ref 19/176 - permission was granted for lands of which the present application site forms part for use as open storage involving the importation and recovery through deposit of inert waste and material (soil and stones) on which would be placed crushed rock/gravel engineering fill graded and compacted to a finished level consistent with existing adjoining development. Access would be via an existing agricultural entrance at Cloghrystick, Milford, County Carlow.

This related to the subject landholding and the infill works now appear to be substantially complete.

Reg.Ref. PL01.245749 - the site to the east at the junction of the L1003/R448 was granted planning permission for the construction of a stone importing and distribution facility consisting of a storage unit with ancillary office space, proposed signage and wastewater treatment system at Cloghrystick, Milford. Co. Carlow.

Copies of the above decisions are included in the History Appendix to this Report.

5.0 Policy Context

5.1. National Planning Framework – Project Ireland 2040

This is broadly supportive of the national rollout of broadband communications.

National Policy Objective 24: *Support and facilitate delivery of the National Broadband Plan as a means of developing further opportunities for enterprise, employment, education, innovation and skills development for those who live and work in rural areas.*

5.2. Regional, Spatial and Economic Strategy for the Southern Region

The RESES seeks to improve high-quality telecommunications infrastructure across the region. Policies are broadly supportive and support the roll out of mobile and broadband infrastructure and include:

RPO137: *It is an objective to strengthen the continued delivery of high-speed, high-capacity digital and mobile infrastructure investment in our Region and strengthen cross regional integration of digital infrastructures and sharing of networks.*

5.3. National Broadband Plan 2020:

The National Broadband Plan (NBP) is the Government's initiative to improve digital connectivity by delivering high speed broadband services to all premises in Ireland, through investment by commercial enterprises coupled with intervention by the State in those parts of the country where private companies have no plans to invest.

5.4. **Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, 1996**

These Guidelines set out the criteria for the assessment of telecommunications structures. The relevant points include the following:

Section 4.3 of the Guidelines refers to visual impact and states that only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages. If such locations should become necessary, sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location. The support structure should be kept to the minimum height consistent with effective operation. The Guidelines also state that visual impact is among the more important considerations which should be considered in arriving at a decision for a particular application. In most cases, the Applicant will only have limited flexibility as regards location, given the constraints arising from radio planning parameters, etc. Visual impact will, by definition, vary with the general context of the proposed development.

The Guidelines state that the approach will vary depending on whether a proposed development is in:

- a rural/agricultural area;
- an upland/hilly, mountainous area;
- a smaller settlement/village;
- an industrial area/industrially zoned land; or
- a suburban area of a larger town or city.
- The sharing of installations and clustering of antennae is encouraged as co-location will reduce the visual impact on the landscape (Section 4.5).

Circular Letter PL07/12 This Circular Letter revised the Telecommunication Antenna and Support Structures Guidelines, 1996. (October 2012)

The circular advises that Planning Authorities should cease attaching time limit conditions to telecommunications masts, except in exceptional circumstances. It advises Planning Authorities to:

- Cease attaching time limiting conditions or issuing temporary durations to telecommunications masts, except in exceptional circumstances.
- Avoid including minimum separation distances between masts or schools and houses in Development Plans.
- Omit conditions on planning permissions requiring security in the form of a bond/cash deposit.
- Not include monitoring arrangements on health and safety or to determine planning applications on health grounds.
- Include waivers on future development contribution schemes for the provision of broadband infrastructure.

Circular PL03/2018 - Revisions to Development Contributions Guidelines in respect of Telecommunications Infrastructure

This includes a requirement that Local Authority Development Contribution Schemes include waivers and reductions for broadband infrastructure (masts and antennae). The waiver applies to any telecommunications infrastructure both mobile and broadband. This includes masts, antennae, dishes and other apparatus or equipment being installed for such communications purposes.

5.5. Carlow County Development Plan 2022-2028

This is now the pertinent plan.

Telecommunications

Chapter 6 deals with Infrastructure and Environmental Management.

Section 6.8 seeks to support Information and Communications Technology.

Section 6.8.1 – seeks to provide internet connectivity throughout the county and to implement the National Broadband Plan in County Carlow.

Section 6.8.2 – Digital Strategy.

Section 6.8.3 – Telecommunications Support Structures and Antennae.

Section 6.8.4 – Information and Communications Technology – Policies

Policy IC.P3 - *Ensure the orderly development of telecommunications throughout the County in accordance with the requirements of the Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, DECLG 1996 and any subsequent revisions along with Circular PI 07/12 on Telecommunications Antennae and Support Structures.*

Policy IC.P4 - *Require co-location of antennae support structures and sites where feasible. Where new structures are proposed operators will be required to submit documentary evidence as to the non-feasibility of a shared co-location option.*

Policy IC.P5 - *To require best practice in both siting and design in relation to the erection of communication antennae and support infrastructure and to ensure that the siting of such infrastructure seeks to minimise and / or mitigate any adverse impacts on communities, public rights of way and the built or natural environment.*

Policy IC.P6 - *Protect areas of significant landscape importance, within or adjoining the curtilage of protected structures, within the setting of archaeological sites or within Natura 2000 sites from the visual intrusion of telecommunication infrastructure that would have a serious impact on the visual amenity of these sensitive sites and locations.*

Section 16.11.11 - Telecommunications and Supporting Infrastructure.

Planning applications for new facilities should include:

- *A reasoned justification regarding the need for the particular development at the proposed location. This shall detail the significance of the proposed development to the telecommunications network, including a map of the area and existing coverage in the area.*

A technical explanation shall be provided of the reasons why coverage cannot be provided by existing antennae.

- *Details of efforts (i.e written correspondence) made to share installations or co-locate / cluster with existing structures; this should reference a map showing the location of all existing structures within a minimum 2km radius of the proposed site.*
- *Evidence of consideration of alternative sites and explanation of their unsuitability.*

- *Visual impact assessment and mitigation measures (e.g. landscape screening, colour treatment of masts / antennae).*
- *Any impacts on rights of way and walking.*

Landscape - Visual

Chapter 9 refers to Landscape and Green Infrastructure.

Section 9.3 – Landscape Character Assessment

Section 9.4 – County Landscape Character Areas and Landscape Types

The four Landscape Character Areas, including the Landscape Types they contain, are shown on Map 9.1 and 9.2. The site is located in the ‘Killeshin Hills’ LCA.

Section 9.8 provides the Landscape – Policies and Objectives

LA.02 - Ensure landscape/visual impact assessment will be a key consideration in the assessment of development proposals within the County.

Natural and Built Heritage

Chapter 10 refers.

Section 10.3 – Natura 2000 Sites. Policies and Objectives are referred to and include:

NS.P1: - Support the conservation and enhancement of Natura 2000 Sites, and to protect the Natura 2000 network from any plans and projects that are likely to have a significant effect on the coherence or integrity of a Natura 2000 Site, in accordance with relevant EU Environmental Directives and applicable National Legislation, Policies, Plans and Guidelines.

Section 10.7 refers to protection of Inland Waters and Riparian Zones. Policies IW.P1 – I.W.P12 relate.

Chapter 16 Development Management Standards - Section 16.2.1 refers to Appropriate Assessment. This includes to ensure that: *The plan or project will not give rise to significant adverse direct, indirect or secondary effects on the integrity of any European site (either individually or in combination with other plans or projects).*

Section 16.14.1 refers to Natural Heritage. This includes reference to the precautionary approach and protection of SACs and SPAs.

5.6. Natural Heritage Designations

The site is c.670m to the east of the River Barrow and River Nore cSAC (Site Code: 002162).

5.7. EIA Screening

The proposed development does not fall within the scope of any of the Classes of development for the purposes of EIA.

6.0 The Appeal

6.1. Grounds of Appeal

A Third Party Appeal has been submitted by Rachel Kate Sheppard. The Grounds of Appeal are summarised under the headings below and include the following:

Visual Amenity

- Concern about the impact on local tourism. Reference is had to local heritage in the 'Ballinabrannah/Raheendoran Village Local Area Plan. Noting that the site is less than 1km from a number of heritage attractions.
- This road surrounded by agricultural use and one-off settlements form the welcoming setting which are part of the larger village.
- They have regard to planning policies that protect natural amenities and refer to the Milford area.
- Such a large structure would impact on the visual amenity of the area.
- Reference is had to permission Reg.Ref.19/176 which included a condition that recommended stockpiling of no more than 2m in height in the interests of the visual amenity of the area.
- It is submitted that it is unreasonable to suggest that the 30m lattice tower would not be a visual assault on the area.
- The Visual Impact mock-ups supplied by the developer are purposely misleading. They refer to the photomontages submitted by Cignal and

consider that they make the mast appear less obtrusive and they include details relative to the actual height of the mast when seen on site.

- The visual impact is evident in the inevitable devaluing of local properties. They provide statements in Appendix B. The local residents of Milford have to carry the excessive financial burden of this private venture, which is unjust.
- The mast would not benefit local tourism, local economy, would be harmful to the visual amenity of the area, would hinder the residents value amenity and would damage local environmental qualities: such as groundwater, River Barrow SAC, Natura 2000 and protected species that depend on the immediate surrounding landscape.

No Scientific Evidence

- They have regard to conditions on the Council's permission for Reg.Ref. 21/400 relative to surface water. The application submitted was requesting to incorporate the soakaway for the adjoining property under Reg.Ref. 19/176. This planning permission is currently being investigated by enforcement. Details of issues regarding Surface Water Management are included in Appendix A - 'Urgent: Environmental Impact'.
- They refer to planning policy and to the SuDS manual and consider full or adequate details have not been provided.
- They consider that it has not been demonstrated beyond reasonable scientific doubt, that the proposal will not negatively affect the integrity of a Natura 2000 site.
- Without such tests and scientific evidence to show the suitability of the site for the suggested Surface water management, it is impossible to conclude the works for planning 21/400 will not pose immediate harm to the already highly vulnerable groundwater, or the River Barrow and River Nore SAC/Natura 2000 site which is hydrologically connected.
- Within Cignal's own NIS report, 6.1 *Impacts on Water Quality*, it is documented that there could be harmful consequences from the development. Reference is also had to inadequacy of the mitigation measures referred to in Section 7.2 *Protection of Water Quality* of the NIS.

- Groundwater Quality Objectives Regulation 4 of the Groundwater Regulations (S.I No. 9 of 2010) places a duty on public authorities to promote compliance with the requirements of the regulations and to take all reasonable steps including, where necessary, the implementation of programmes of measures to: (a) prevent or limit, as appropriate, the input of pollutants into groundwater and to prevent the deterioration of the status of all bodies of groundwater.

High Ground Water

- Historically during periods of wet weather the site is prone to flooding, due to the permanently high water table.
- This high-water table is further evidenced in a 'Site Suitability Assessment for on-site wastewater management' for the adjoining site to the east (Reg.Ref.15/151 refers).
- With this taken into consideration the development of a soakaway is impossible. It has not been proven otherwise.
- The proposed site lies within an area characterised by a high-water table and vulnerable groundwater. They attach figures and photographs to demonstrate.

Environment: Mitigation Measures

- Signal plans show the construction of the cabinets within 2m of the drains – which is not permissible according to the NIS.
- They query that the construction is overlapping the 2m wide buffer zone.
- They refer to a 'non-existent and impossible surface water management system'.
- They reference the NIS submitted (Section 7.2) relative to mitigation measures referred to for the Protection of Water Quality. They contend that there are a multitude of problems with the mitigation measures proposed and reference these.
- The entire Mitigation Measures of the Environmental reports assume that 19/176 have successfully installed as surface water management system/soakaway. They query this and consider it heresay, with no evidence

to support it. They have provided photographic evidence to the contrary. It cannot be relied upon as it would have irreversible environmental effects.

- They consider Condition no.11(c) of the Council's permission unworkable.
- They refer to legal cases and urge the Board to not assume the truth in any of the application reports/statements.
- Contradiction within planning application statement and construction drawings could impact ground water.
- Based on the information submitted, that it can be concluded that the statement relative to depth of foundations by Cignal is null and void. The development would resort to use a pile foundation, however, no environmental consideration was given to this within the NIS or AA reports received.
- The Reports have failed to include all relevant and required aspects of environmental assessment. They provide details of what an EIA Report should include.
- The applications failed to include alternative green field sites in the locality. There has been no reference in the application to population, human health, bats local to the area, climate change (re: flooding etc), or indeed the accumulative effects.
- AA and NIS Report: In combination Impacts were incomplete.
- The works in the original Keystone compound were not taken into effect, eg waste water disposal, surface water disposal, etc.
- The future impact of the infilled yard under Reg.Ref. 19/176 was not taken into account.
- Possible effects on the finely balanced eco-system of the wetlands adjoining the site and the hydrological connection to the River Barrow SAC.
- There has been no assessment on the negative impact on bats, who can be seen nightly and have historically foraged in the area, as outlined by the Biodiversity Maps. They consider that this impact on bats and their habitat needs to be assessed.

- Photographs and Mapping are included relative to Environmental issues.
- Appendix A refers to 'Environmental + Surface Water Management Issues with PL19/176, currently under investigation with Carlow's Enforcement Department.
- Appendix B – Further information responses and Auctioneers statements of devaluation.
- Appendix C – Original Objection & Receipt from Council.

6.2. Applicant's Response

Indigo have submitted a response to the Third Party Appeal on behalf of the applicant Cignal Infrastructure Limited. This is summarised under the following headings:

Rationale

- They provide details of the roll out of the telecommunications network and note that there is currently a deficiency in 3G and 4G in the surrounding area.
- A new multi-operator site at Cloghrick would significantly improve the coverage, capacity and broadband services in the area and is justified on this basis.
- The proposed development has been designed to meet the aims and objectives of national, regional and local planning policy as detailed in the planning documentation submitted.
- The increase in data traffic expected in the coming years has compelled mobile and broadband operators to find new ways to significantly boost their network capacity, provide better coverage, and reduce network congestion to meet customer expectations.
- The proposed multiuser structure is designed for co-location and so this will enable future co-location of equipment in an area which is a known area of poor mobile and data coverage.

- The applicant (Signal) will only propose to develop sites where there is an expected interest from a number of operators to co-locate equipment on and so it is implicit that co-location forms part of the development.
- The proposed new tower will extend voice and data services over a wider coverage that currently exists and will provide co-location space for planning future technology.

Landscape and Visual Impact

- As part of the design process a visual impact appraisal was undertaken at the site to assess the changes that would arise from the development on available views in the area.
- The impact assessment policy considered development policy contained in the Carlow CDP.
- The installation is positioned within low lying rural landscape within its immediate setting and the wider rural area. They refer to the 12 viewpoints and the photomontages submitted and provide an analysis in tabular format.
- They have regard to Landscape/Visual impact. They refer to the LCA in the Carlow CDP and note that the area can be considered as having a medium to low capacity to accommodate changes relative to telecommunications structures.
- The structure is designed to a minimal height of 30m to meet the coverage objectives of the network and surrounding area.
- They consider that in view of the commercial development to the east and having regard to Reg.Ref. 19/176 that the lands come under a commercial use classification and so is a preferred location to position such development.
- They note that the Planners Reports and the Inspectors Report (Ref.309963-21) found that the proposed development would not seriously injure the visual or residential amenities of the area.
- They provide a summary of visual impacts and provide that in this case the visual impacts on this rural area is considered to be acceptable as

demonstrated by the photomontages that were provided in the planning application documentation.

Environmental Impact and Site suitability

- The proposed development is of a type and scale that does not require an EIA and is below sub-threshold level to warrant EIA screening.
- An NIS was submitted with the application. Mitigation measures to prevent adverse effects (either directly or indirectly) the integrity of any European site, either alone or in combination with other plans or projects are set out in Section 7 of the NIS.
- The CEMP will ensure that the mitigation measures as outlined in the NIS are followed so that there will be no pollution risk during construction works.
- It has been concluded in summary that there is no reasonable scientific doubt in relation to the development or in combination with other plans or projects that the proposal will adversely effect the integrity of a European site.
- The proposed development is sited within the infill works area as permitted under Reg.Ref. P19-176, therefore surface run-off will be contained within its boundaries as designed and implemented.
- In response to the F.I request a letter of compliance has been provided by the consultant engineers confirming that the site has been constructed in accordance with permission Reg.Ref. 19/176 and the Certificate of Registration (COR-CW-19-05-02).
- They consider the details submitted sufficient to address concerns relating to environmental impacts.

Devaluation of Property

- They submit that property values in the area may be positively affected by an improvement in communication infrastructure particularly wireless broadband services which is acknowledged as a vital utility service.
- They refer to surveys done abroad noting an increase in house prices.
- They also refer to the assessment of this matter in the Planning Inspectors Report Ref. no. ABP-309963-21.

Conclusion

- They note the benefits of the proposed infrastructural development and that the applicant has aimed to provide a sensitively located multi-user installation at this location in compliance with the aims and objectives of the CDP.
- That they have provided sufficient justification for this site which is required for both existing and the future expansion of telecommunications network in line with Local, Regional and Government policy on broadband availability.

6.3. Planning Authority Response

They have regard to the appeal documentation submitted and provide that they have no further comments to make on the appeal. That notwithstanding the content of the appeal, their position remains as per the Planning Report recommendation. That the Board is directed to the details set out in the planning reports on file, the internal department reports and prescribed body reports for the planning application.

6.4. Observations

None noted on file.

7.0 Assessment

7.1. I consider the main issues in the assessment of this appeal are as follows:

- Policy Considerations
- Justification for Proposed Development
- Siting and Design
- Visual Impact
- Access and Roads
- Construction and Surface Water Drainage
- Public Health
- Bats

- Appropriate Assessment

7.2. Policy Considerations

- 7.2.1. The 'Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities' (DOE, 1996) state that it is national policy to develop a comprehensive mobile telecommunications service within Ireland in order to promote industrial and commercial development, to improve personal and household security, and to enhance social exchange and mobility. Such proposals are considered in light of this guidance in addition to revisions provided in Circular PL07/12.
- 7.2.2. This strategic policy is reiterated in the National Planning Framework: Project Ireland 2040. National Policy Objective 24 seeks to support and facilitate broadband including for those who live and work in rural areas and NPO48 which aims to develop stable, innovative and secure digital communications and services infrastructure on an all-island basis. The National Broadband Plan also aims to deliver a high-speed broadband network throughout Ireland.
- 7.2.3. It is noted that this application was considered by the Council under the Carlow County Development Plan 2015 -2021. This has now been superseded by the Carlow County Development Plan 2022-2028. The policies and objectives therein relative to Telecommunications have been noted in the Policy Section above. While such ICT infrastructure is generally supported, this needs to be balanced against the need to safeguard the rural and urban environment.
- 7.2.4. Section 6.8.4 of the current Carlow CDP includes policies and objectives relative to Information and Communications Technology and this includes having regard to Telecommunications Support Structures and Antennae. Section 16.11.11 provides the Development Management Guidelines relevant to Telecommunications and Supporting Infrastructure. This includes relative to a reasoned justification for new facilities, co-location and consideration of alternative sites. These policies and objectives are quoted in the Policy Section above.
- 7.2.5. Regard has been had in the Planning History Section above to the previous Board reason for refusal on this site (Ref. ABP-309963 -21 relates). It is noted that a Natura Impact Statement has been submitted with the current application. Therefore, in dealing with applications for such development it is essential that care and

consideration be afforded to the visual and environmental effects and to siting and design and to the NIS submitted to ensure that the proposal would be in accordance with the proper planning and sustainable development of the area.

7.3. Justification for Proposed Development

- 7.3.1. A Technical Justification has been submitted with the application. This provides that the site is designed to support broadband communications with antennas, transmission dishes and equipment for three mobile network operators and one wireless broadband provider, extending the reach of communications technologies into areas that currently have poor to non-existent wireless mobile voice and data services. The Site Selection Justification, notes service black spots and weak coverage in the surrounding area. That the proposed structure will bring a significant improvement in voice and broadband services in the area. Particularly targeting the section of the M9 motorway, the R448 which links Carlow to the M9. The site will improve services to the Ballygowan, Milford and the surrounding areas.
- 7.3.2. They submit that the proposed multi-operator structure can accommodate equipment for three network operators along with one broadband provider. That the proposed structure will allow multiple network operators to deploy 2G voice, 3G and high speed 4G broadband services. That in addition to general coverage enhancement in these areas, customers will also benefit from more choice of network operators for high speed broadband and mobile data leading to greater competition between the network operators and better options for people in the area. That a new multi-operator site at Ballybannon would significantly improve the coverage, capacity and broadband services in the area.
- 7.3.3. The Third Party is concerned that there is a lack of discussion of alternatives and that alternative sites more suitable sites and opportunities for co-location have not been considered. The Technical Justification provides that the nearest mobile sites are approx. 5kms from the proposed site at Ballybannon. Due to distance, terrain and surrounding clutter these sites do not provide sufficient coverage to the target area. That Eir already have a presence on most of these sites. They submit that a full list of the surrounding sites is detailed in tabular form, and the reasons for discounting each of these 4no. sites is given.

7.3.4. The First Party response provides that the proposed multiuser structure is designed for co-location and so this will enable future co-location of equipment in an area which is a known area for poor mobile and data coverage. That the applicant (Cignal) will only propose to develop sites where there is an expressed interest from a number of operators to co-locate on and so it is implicit that co-location forms part of the development.

7.4. Siting and Design

7.4.1. The proposed development site (0.01ha in area) is part of a larger landholding (0.85ha) and overlaps with the boundary of a stone importing and distribution business which extends to the east of the site. Planning permission (Reg.Ref.19/176) relates. Regard is had to the Site Layout Plan and drawings submitted showing the site location (outlined in red), proximate to the north-western boundary of the landholding (shown blue) and the proposed extent of the works.

7.4.2. The Planning Report submitted on behalf of Cignal provides a description of development. This includes that the proposed development comprises of the erection of a 30m lattice support structure to be installed on the corner of the field boundary c.50m north of the public road (L1003). EIR broadband providers telecommunications equipment is to be installed on the support structure comprising of quadband antennas, transmission dishes including radio units and associated cabling and supporting fixtures. Cabinets and related ancillary equipment including power meters, cabling management system and other related equipment is to be contained within a 2.4m palisade fenced compound to provide a relatively compact compound.

7.5. Visual Impact

7.5.1. Chapter 9 the Carlow CDP 2022-2028 refers to Landscape. Section 9.5 - County Landscape Sensitivity and Capacity – Map 9.3 and Tables 9.1 /9.2 refer. This shows that the site 'Farmed Lowland' is within Landscape Sensitivity 2-3 (Decreasing to Moderate Sensitivity). The Killeshin Hills LCA located in area 4 which is in an area of Increasing Sensitivity.

7.5.2. Regard is had to the capacity of the County's landscape to visually absorb certain land uses and types of development and includes - *areas that may be less sensitive to change correspond to the built-up areas and farmed lowlands, while areas that may be most sensitive to change are uplands, river valleys and farmed ridges.*

Section 9.6 refers to Landscape and Visual Impact Assessment. This includes:

L VIA should be carried out for significant development proposals e.g. wind turbine or solar array developments, quarries, telecommunications infrastructure, etc.

7.5.3. It is noted that a Visual Impact Appraisal was included with the Planning Report submitted with the application, to assess the changes that would arise from the development on available views in the area. The First Party submits that this assessment takes into account baseline information about the local landscape characteristics of the area including topography, settlement patterns, land-use, as well as the screening provided from trees and vegetation in the environment. This includes that the installation is proposed within low lying rural area within its immediate setting and wider area. They considered that 12 no. viewpoints, taken within a c.1km radius of the site would be sufficient. They include photomontage imagery as well as taking into account the sensitivity of the site. A table is provided that refers to the photomontage images provided with the application documentation submitted. The sensitivity is described as 'Low to Medium'.

7.5.4. The concerns of the Third Party relative to the Visual Impact of the proposal on the immediate and wider area are noted. They have raised the issue of visual impact of the proposed 30m structure being detrimental to the amenities of the area, including local tourism, heritage and local residents. They consider that the visual impact mock-ups supplied by the developer are misleading in that they make the mast appear less intrusive. They are also concerned that the impact on visual amenity will lead to devaluation of properties in the area.

7.5.5. The First Party refer to various studies relative to the positive impact of improved broadband connectivity and do not consider that the proposal will have a negative impact on property valuations in the area. It is of note that this issue was discussed in par. 7.7 of the Inspectors' Report for Ref.ABP-309963-21. I would concur that potential for devaluation of property would not be considered a reason for refusal in this case.

- 7.5.6. The First Party note that the structure is designed to be a minimal height of 30m to meet the coverage objectives of the network of the surrounding area. That as the height requirement to meet the coverage objectives is fixed to allow for a multi-operator site it is only possible to reduce the visual impact by positioning the tower in a less sensitive area within the search ring. They also have regard to the site being positioned adjacent to a stone importing and distribution commercial facility, which comprises of an office/warehouse building and uncovered storage yard and the uncovered storage yard which as noted on site now appears to have been filled in (Reg.Ref.19/176 refers). They consider that the lands therefore come under a commercial land use classification and so is a preferred location in which to position telecommunications infrastructure.
- 7.5.7. They conclude that the development will be exposed from views from (L1003), negative viewpoints 1-5 will be expected to cause moderate effects on the visual amenities of 5no. houses located within the area. That there are no impacts on the Scenic View (No.33) from Milford area to the west. That wider and more distant views from the surrounding area are restricted by tree cover on the site boundaries as well as the topography and as illustrated in their photomontages.
- 7.5.8. While I note this location, the site and adjoining lands to the east are within the rural area and are not zoned for commercial use. In view of its height the mast will appear prominent and be seen as infrastructure visible in the wider rural area. It is noted that neither the Planners Report nor the Inspectors Report in Ref. ABP-309963-21 (par 7.6) considered that the proposed development would seriously injure the visual amenities of the area. Having regard to the set back from the road, and nearby housing being some distance away on the opposite side of the road, the relatively low-lying terrain, screening provided by trees and hedgerows, and to the visual impact assessment submitted, I would concur with this.

7.6. Access and Roads

- 7.6.1. Access to the site is to be provided by way of an existing access gateway from the L1003 currently in an overgrown and poor condition. This access will need to be upgraded. It is proposed to construct a new 3m wide access track extension of approx. 50m from the existing access. The Planning Report submitted provides that

the trackway and site will be incorporated into the construction of permitted storage facility permitted under Reg.Ref. 19/176 and finished to a level consistent with the existing adjoining development under construction once completed, which will be level with the public road.

- 7.6.2. The Council's Road's Section notes that the subject proposal is served by a local road (L1003) carrying typical a daily load of <500 vehicles within a speed limit of 80km/hr. That the sightlines proposed are in accordance with the Carlow CDP. They provide that there is no roads related reason to refuse this planning application and recommend that permission be granted subject to conditions.
- 7.6.3. I would note that as per Section 16.10.7 *Entrances and Sightlines* and Table 16.5 of the current Carlow CDP 2022-2028 refers, and the sightlines proposed (120m either side of the entrance) as shown on the drawing (Site Location Map -1:1000 Sightlines) appear to be in compliance. Therefore, I would not consider that there is a roads reason for refusal in this case.

7.7. Construction and Surface Water Drainage

- 7.7.1. It is provided in the details submitted that as outlined on the drawings, the tower foundation will be installed within the imported material layer to finished level. That the material is classified as of engineering value and so is suitable for the foundation proposed without the need to install pile foundations.
- 7.7.2. The Planning Report submitted with the application notes that surface runoff volumes from the development and hardstanding area of the development are low and the pollutant loads minimal due to the small development footprint. That runoff from areas of the hardstanding is achieved within the curtilage of the site using a proposed surface water drainage system comprising of a trench type soakaway and provides details of such.
- 7.7.3. As part of the Council's F.I request the applicant was requested to submit certification and as-built drawings from a suitably qualified engineer/professional confirming that the surface water management system approved for the entire site (which the current proposal forms part of) has been constructed in accordance with the details approved under Planning Reg. Ref.19/176. In response the applicants refer to an As Build and signed letter of compliance from the Site Providers

engineers consultants to confirm that the site has been constructed in accordance with the details approved under Planning Reg.Ref. 19/176. In addition, they provide that adverse impacts have not been detected during site inspections and confirm that works carried out are in accordance with the Certificate of Registration (COR – CW - 19-05-02) associated with planning permission (Reg.Ref. 19-176).

- 7.7.4. It is of note that the Environment Section of the Council noted that the proposed development is not affecting surface water, sewers and water. They provide that they have confirmed that the imported fill to the site comply to the importation of soil and stone and no adverse effects were noted on any nearby drain or stream. They note that the consulting engineer has verified that the site has been constructed in substantial compliance with conditions relating to surface water management of the final grant of PL19/176. The Environment Section of the Council recommended that a Construction Environmental Management Plan (CEMP) be submitted prior to the construction of the development. If the Board decides to permit, I would recommend, that such a condition be included.
- 7.7.5. It is noted that issues relevant to surface water drainage and potential for impact on water quality have been raised as a concern by the Third Party. They have regard to the highwater table and vulnerable groundwater in the vicinity of the site. They are also concerned about contamination of watercourses or groundwater. They consider that Condition no.11(c) of the Council's permission relative to surface water drainage and the use of soakaways is unworkable.
- 7.7.6. The First Party response notes that the proposed development is sited within the infill works area as permitted under PL19/176 and provides that therefore surface water run-off will be contained within its boundaries as designed and implemented. They provide that surface water runoff from the proposed development will be low and provide details of a trench type soakaway. That this will ensure that any additional run-off is absorbed within the curtilage of the proposed development site and will not impact on the surrounding waterbodies. They submit that this is considered sufficient to address concerns relating to environmental impact.
- 7.7.7. Taking all these issues into consideration, if the Board decides to permit, I would recommend that a condition relative to surface water drainage be included. Regard

is had further to the issue of surface water drainage and water quality, as discussed in the AA Section below.

7.8. Public Health

- 7.8.1. Having regard to concerns raised relative to proximity to residential and public health, I refer the Board to Circular Letter PL 07/12, issued by the Dept. of Environment, Community and Local Government on the 19th of October 2012 which states that:

'Planning Authorities should be primarily concerned with the appropriate location and design of telecommunications structures and do not have competence for health and safety matters in respect of telecommunications infrastructure. These are regulated by other codes and such matters should not be additionally regulated by the planning process.'

- 7.8.2. Therefore, having regard to the content of the Circular Letter, issues of public health in relation to the telecommunications structure are not a matter for the planning authority and there are no safety concerns outlined in relation to construction of the development. It is of note that the operator's compliance with general public exposure limits will be covered by the terms of the operator's licence.
- 7.8.3. Safety during construction was also referenced. However, the development would be a standard construction project and any issues could be addressed by way of a Construction Management Plan if considered appropriate by the Board.

7.9. Bats

- 7.9.1. The Third Party refers to Bat activity in the area. Bats are protected by law and they are concerned that this proposal will impact negatively. They refer to foraging and roosting bats in the area. They are concerned that the proposal would emit electromagnetic radiation which might be harmful to bats. They refer to studies and note that there has been no assessment of negative impact on bats.
- 7.9.2. I would also refer the Board to the 'Bats and Frogs' Section (paragraphs 7.13 -7.15) in the Inspectors Report ABP-309963-21, where the Inspector included reference to the Telecoms Guidelines, which refer to studies on the effects of radiation emitted by

telecom masts on human and animal biology and concluded that no substantive effects were attributable to this source (appendix II of the national guidelines). It is not considered that the proposed location or scale of the proposal would be likely to have a significant impact on bats. In addition, it is of note that they are not included as species of conservation interest, for The River Barrow and River Nore SAC.

8.0 **Appropriate Assessment**

8.1. **Stage I – Screening**

- 8.1.1. As has been noted in the Planning History Section above, the previous application (Ref. ABP-309963-21) for a similar mast type development on the subject site was refused by the Board. In summary this was because the Board was not satisfied on the basis of the documentation submitted with the application and appeal that there is no hydrological connection between the application site and the River Barrow and River Nore SAC (Site Code: 002162), or that the proposed development would not give rise to a release of contaminants into the water environment in the catchment of the said SAC. That in the absence of an NIS, that the Board could not be satisfied that the proposed development or in combination with other plans and projects, would not be likely to have a significant effect on the said SAC, in view of the site's conservation objectives. Therefore, the Board was precluded from granting permission.
- 8.1.2. A Natura Impact Statement (Dixon Brosnan Environmental Consultants) 'Report in Support of Appropriate Assessment (AA) Screening & Natura Impact Statement (NIS)' dated October 2021, has been submitted with the current application.

Compliance with Article 6(3) of the Habitats Directive

- 8.1.3. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.
- 8.1.4. In accordance with the obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a European site; there is a requirement on the Board, as the competent authority, to consider the possible

nature conservation implications of the proposed development on the Natura 2000 network, before making a decision, by carrying out appropriate assessment. The first stage of assessment is 'screening'.

- 8.1.5. The methodology for screening for Appropriate Assessment as set out in EU Guidance and the Department of Environment, Heritage and Local Government is:
- 1) Description of the plan or project and local site or plan area characteristics.
 - 2) Identification of relevant European sites and compilation of information on their qualifying interests and conservation objectives.
 - 3) Assessment of likely significant effects-direct, indirect, and cumulative, undertaken on the basis of available information.
 - 4) Screening Statement with conclusions.

Project Description and Site Characteristics

- 8.1.6. This proposal provides for the construction of 30m multi-user lattice telecommunications support structure, carrying antenna and dishes enclosed within a 2.4m high palisade fence compound together with associated ground equipment cabinets and associated works including new access track and to replace existing gated access situated at Cloughristick, Milford, CO. Carlow. The installation is to form part of the Eir Mobile telecommunications network.
- 8.1.7. A Habitats Directive Assessment has been submitted with the application. The purpose of this report is to examine the development for possible impacts on the integrity of the Natura 2000 network, in particular on the adjacent SAC – the River Barrow & River Nore (Site Code: 002162).
- 8.1.8. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:
- * Construction related - uncontrolled surface water/silt/ construction related pollution
 - * Habitat loss/ fragmentation
 - * Habitat disturbance /species disturbance (construction and or operational)
- 8.1.9. In relation to the matter of habitat loss or alteration the proposed development site is not located adjacent to (c.670m away) the River Barrow and River Nore SAC, there

will be no direct loss or alteration of the habitat. Regarding the issue of habitat/species fragmentation the proposed development would not result in any direct habitat loss or fragmentation.

European Sites

8.1.10. In this case there are two Natura sites within a 15km radius of the site i.e:

- The River Barrow and River Nore SAC (Site Code: 002162) – the site is c. 300m away from the River Barrow to the west.
- The Slaney River SAC (Site Code 00781) – c.13.5km east of the site and not hydrologically connected to the site.

The Qualifying Interests and General Conservation Objective of the River Barrow and River Nore SAC are shown on Table 1 below.

European Site (code) and distance from proposed development	List of Qualifying interest/Special Conservation Interest	General Conservation Objectives	Connections (source, pathway receptor)	Considered in further screening Y/N
River Barrow and River Nore SAC 002162 c.670m to the west of the site	Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Reefs [1170] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Water courses of plain to montane levels with the Ranunculion fluitantis and	To maintain or restore the favourable conservation condition of the Annex I habitats(s) and/or the Annex II species for which the SAC has been selected.	There is source – pathway – connectivity between the proposed development site and the River Barrow and River Nore SAC for hydrological connection. There is a potential	Yes

	<p>Callitricho-Batrachion vegetation [3260]</p> <p>European dry heaths [4030]</p> <p>Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]</p> <p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p><i>Vertigo moulinsiana</i> (Desmoulin's Whorl Snail) [1016]</p> <p><i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029]</p> <p><i>Austropotamobius pallipes</i> (White-clawed Crayfish) [1092]</p> <p><i>Petromyzon marinus</i> (Sea Lamprey) [1095]</p> <p><i>Lampetra planeri</i> (Brook Lamprey) [1096]</p> <p><i>Lampetra fluviatilis</i> (River Lamprey) [1099]</p> <p><i>Alosa fallax fallax</i> (Twaite Shad) [1103]</p> <p><i>Salmo salar</i> (Salmon) [1106]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p>		<p>pathway– via (surface water run-off or groundwater contamination during construction and/or operational phases, disturbance during construction)</p>	
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	<p>Trichomanes speciosum (Killarney Fern) [1421]</p> <p>Margaritifera durrovensis (Nore Pearl Mussel) [1990]</p>			
<p>Slaney River Valley SAC</p> <p>000781</p> <p>13.5km east</p>	<p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Atlantic salt meadows (Glaucopuccinellietalia maritima) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion alba) [91E0]</p> <p>Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]</p> <p>Petromyzon marinus (Sea Lamprey) [1095]</p> <p>Lampetra planeri (Brook Lamprey) [1096]</p> <p>Lampetra fluviatilis (River Lamprey) [1099]</p> <p>Alosa fallax fallax (Twite Shad) [1103]</p>	<p>To maintain or restore the favourable conservation condition of the Annex I habitats(s) and/or the Annex II species for which the SAC has been selected.</p>	<p>There is no source – pathway-receptor connectivity between the proposed development and the SAC</p> <p>There is no potential for impact</p>	<p>No</p>

	Salmo salar (Salmon) [1106]			
	Lutra lutra (Otter) [1355]			
	Phoca vitulina (Harbour Seal) [1365]			

Slaney River Valley SAC

8.1.11. Note is had of the Table above and the qualifying interests and conservation objectives of this Natura 2000 site, which is c.13.5kms east from the application site. The project is not hydrologically connected to the Slaney River Valley SAC, which is in a different catchment and there is no source - pathway - receptor. Hence potential impacts on this Natura 2000 site are ruled out.

River Barrow and River Nore SAC

8.1.12. No land area from within the designated boundaries is required to implement the proposed development. The development is not located within a site designated for nature conservation purposes but is within c.670m to the east of the River Barrow and River Nore SAC. The proposed development is outside of the designated boundaries. As has been noted above there may be hydrological connections in the vicinity of the proposed development site, relative to drainage ditches that ultimately discharge into the Mortarstown Upper Stream which is a tributary of the River Barrow. In view of the proximity and potential for hydrological connection this proposal has potential to impact on the integrity of the River Barrow and River Nore SAC and this is considered further in the Screening Rationale below.

Assessment of likely Effects (Direct/Indirect)

8.1.13. The site of the proposed development is on land on which has been placed crushed rock/gravel fill graded and compacted to a finished level (Reg.Ref.19/176 refers), dominated by gravel, with sufficient trafficking to prevent growth of plants and has no ecological interest. The proposed development site is located outside the boundary of the SAC designation and about 670m away. The project does not impinge directly on the SAC area but has potential for hydrological linkage through the ditches that ultimately drain to the stream some distance to the north of the development site. In

view of the nature and limited site coverage/footprint of the proposed development, it is provided, that there will be little appreciable run-off.

- 8.1.14. It is noted that the identification of risk does not mean that an effect will occur, nor that it will be significant. The identification of such risks means that there is a possibility of environmental or ecological damage occurring. The level and significance of the effect depends upon the nature of the consequence, likelihood of risk and characteristics of the receptor.
- 8.1.15. The precautionary principle is applied for the purposes of screening to ensure that consideration and pre-emptive action is undertaken where there is a lack of scientific evidence. It is noted that mitigation measures are not taken into account in the AA screening process.

Potential Impact on the River Barrow and River Nore SAC

Investigation of Hydrological Connections

- 8.1.16. The Screening Report provides that the proposed development is not directly connected with, or necessary to the conservation management of any Natura 2000 sites. Consideration is given to the source-pathway-receptor linkage and associated risks between the proposed development and Natura 2000 sites. For a significant effect to occur there needs to be an identified risk whereby a source (e.g. contaminant or pollutant arising from construction activities) affects a particular (i.e. Natura 2000 site) through a particular pathway (e.g. a watercourse which connects the proposed development with the Natura 2000 site).
- 8.1.17. In this case the proposed development is located approx. 670m east of the River Barrow and River Nore SAC at its closest point. The NIS (section 4.3.1 of the Screening section) notes that small drainage ditch runs along the northern boundary of the proposed development site. This ditch meets with what appears to be a spring/drainage ditch approx. 80m east of the proposed development site. This drainage ditch runs a further 2km north from the proposed development site before discharging into the Mortarstown Upper Stream, which flows into the River Barrow a further 2.1km downstream.
- 8.1.18. It is noted that this drainage ditch is not mapped by the EPA envision mapping portal but is included on the OSI maps (Fig.1). It is provided that although unlikely given the

small scale of the proposed works and the distance involved (4.1km downstream), surface water runoff during the construction or operational phase could potentially impact on water quality in the River Barrow. It is also noted that the proposed development is located within an area of high groundwater vulnerability. The Screening Report provides that there may be potential for local groundwater contamination during construction and operation.

Impact on Water Quality

8.1.19. The Screening Report refers to the Water Framework Directive and to the River Basin Management Plan for Ireland 2018-2021. Table 6 refers to WFD Status 2nd Cycle. The proposed development site is located within the Barrow_SC_100 subcatchment and within the Barrow_ 180 sub-basin. Five out of eight waterbodies (listed) are at risk due to less than Good ecological status and elevated phosphate levels. The WFD status (2013-2018) is described as Moderate – At Risk. The main pressure categories are seen to be agriculture, hydro morphology and urban runoff.

8.1.20. Section 4.6.3 notes that surface water runoff during construction and operational phase could potentially be contaminated with silt, hydrocarbons or other chemicals. The high groundwater vulnerability means that groundwater could also be contaminated. The proposed development is located on the gravel aquifer which includes the main channel of the River Barrow. Therefore, potential to impact on water quality within the River Barrow and subsequent aquatic habitats.

Loss of Habitat

8.1.21. Section 4.7 provides that the proposed development is not located with a designated site and the habitats recorded within the site do not correspond to habitats listed on Annex 1 of the River Barrow and River Nore SAC. That the habitats recorded within the proposed development site are considered of a low to moderate value at local level. They note that there is an area of Alluvial woodland mapped along the main channel of the River Barrow west of the proposed development site, however this is located over 600m west of the works area and there will be no direct habitat loss resulting from the proposed works. They provide that the proposed development will not result in any adverse effects on European sites due to habitat loss.

Impacts from Noise and Disturbance - Otter

- 8.1.22. Otter which is a qualifying species for the River Barrow and River Nore SAC could potentially use the proposed development site. Qualifying species and habitats within the River Barrow and River Nore SAC could therefore potentially be impacted via a loss of habitat, disturbance and/or reduction in water quality during the construction or operational phases and the spread of invasive species. Therefore, a possible source-pathway-receptor link exists between the source (proposed development) and the receptor (River Barrow and River Nore SAC). Further information on this SAC is given in the NIS and a full site synopsis is included in Appendix 1 of the NIS.
- 8.1.23. Potentially increased noise and disturbance associated with the site works could cause disturbance/displacement of fauna. The Screening Report provides that the development site is outside the SAC and does not have a role in supporting any of the listed habitats or species, other than the possibility of Otter (Section 4.7.2) which is listed on Annex II of the Habitats Directive. It provides that no signs of Otter were noted during a site visit within 150m of the proposed development. That given the small scale and temporary nature of construction works, no impact on Otter is predicted during the construction phase. Likewise given the absence of suitable habitats for Otter within the proposed development site and the imperceptible noise impacts in nearby SAC habitats, no impact from increased noise and disturbance will occur during the operational phase of the development. Therefore, no impact from the proposed development on for Otter as a qualifying interest for the River Barrow and River Nore SAC is predicted to occur.

Impact of Invasive Species

- 8.1.24. Section 4.5.4 has regard to Invasive Species and notes that the control of such comes under the Wildlife (Amendment) Act 2000. They provide that no third schedule invasive species or species listed as high or medium risk by the NBDC were recorded within the proposed development site. Section 4.6.4 notes that therefore, no significant impact on the River Barrow and River Nore SAC is predicted to occur from the spread of invasive species.

In Combination Impacts

- 8.1.25. In combination impacts refer to a series of individual impacts that may, in combination produce a significant effect. Negative threats to the River Barrow and

River Nore SAC include modifying structures within the river, agricultural intensification, pollution, erosion and flood defences. None of which occurs relative to the subject application.

8.1.26. The Screening Report (section 4.6.5) notes that the area surrounding the proposed development is rural in nature with a mixture of agricultural lands, one-off dwellings and lands. Wastewater is also discharged from nearby settlements (e.g. Carlow, Muinebheag and Leighlinbridge). It provides that although unlikely due to the weak hydrological connection, further investigation is required to determine if surface water runoff from the proposed development could potentially lead to in-combination impacts within the River Barrow and River Nore SAC.

Conclusion – Stage I AA

8.1.27. Although unlikely to have hydrological connection the precautionary principle has been applied and therefore the screening assessment has determined that the conservation objectives of the River Barrow and River Nore SAC may be impacted by the proposed development.

8.1.28. Section 4.7 provides Stage I - AA Conclusions. This includes that potential impacts, although improbable, have been identified for the River Barrow and River Nore SAC. Screening conclusions with regard to potential impacts for the qualifying interests/conservation interests for the Natura 2000 site are listed and screened in/out in Table 7.

8.1.29. The Screening Report concludes:

- The proposed development is not directly connected with, or necessary to the conservation management of any Natura 2000 sites.
- On the basis of objective information, the possibility of significant effects from the proposed development on European sites cannot be ruled out. Although unlikely, there is potential for the proposed development to significantly impact the River Barrow and River Nore SAC via impacts on water quality.
- The proposed development, along or in combination with other projects could potentially impact on the qualifying interests of the River Barrow and River Nore SAC.

- 8.1.30. That on the basis of objective information and in view of best scientific knowledge, the possibility of significant effects from the proposed project on a European site, The River Barrow and River Nore SAC, cannot be ruled out and therefore an AA is required.
- 8.1.31. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) could have a significant effect on European Site No. 002162, in view of the site's Conservation Objectives, and Appropriate Assessment and submission of a NIS is therefore required.

8.2. **Stage II Appropriate Assessment**

- 8.2.1. The application includes a NIS which examines and assesses potential adverse effects of the proposed development on the following European Sites:

- River Barrow and River Nore SAC (site code: 002162)

Having reviewed the documents, submissions and consultations with the NPWS etc, I am satisfied that the information allows for a complete assessment of any adverse effects of the development, on the conservation objectives of this European site alone, or in combination with other plans and projects.

Appropriate Assessment of the implications of the proposed development

- 8.2.2. The following is a summary of the objective scientific assessment of the implications of the project on the site integrity of the River Barrow and River Nore SAC. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

Aspects of the proposed development

8.2.3. The main aspects of the proposed development that could adversely affect the conservation objectives of European sites include:

- Impacts to water quality and habitats through construction related pollution events and /or operational impacts.

8.2.4. A description of the Qualifying interests and Conservation Objectives of this SAC is given in the Table in the Screening Assessment above. The NIS provides that the only qualifying interests that could be affected by run-off from the project are noted on their featured Table 7 relates. The screening provides that the conservation interests that are relevant to this site. While the majority of Qualifying interests within the SAC are screened out, this screens in the following, that might be affected relative to any deterioration of water quality: *Water courses of plain to montane levels*, and the following aquatic species – *Freshwater Pearl Mussel, White-Clawed Crayfish, Sea, Brook and River Lamprey, Twaite Shad, Salmon, Otter*. None of the other features occurs on or within range of outflows from the site and they are not potentially at risk from the project.

8.2.5. The species and their habitats that are of qualifying interest within the SAC likely to be within the zone of influence as identified in the NIS are summarised by the Ecologist as follows:

Freshwater Pearl Mussel - They provide details of the qualifying species and note that the Nore Freshwater Pearl is located on a 15.5km stretch of the River Nore, which has no hydrological connection to the River Barrow. That the proposed development is located outside the current known distribution and favourable reference range and that there are no NBDC records within the vicinity of the proposed development.

Otter- They have been historically recorded between the proposed development site and the River Barrow. The proposed development site is not of value for this species. There are no streams which support populations of fish within or in the vicinity of the proposed development site. No signs of otter were noted during the Ecologist site visit within 150m of the development. That given the small scale of the works no significant disturbance of otter will occur, however, there is potential for the

proposed development to have an impact upon this qualifying interest due to a potential deterioration in water quality during construction or operation.

White clawed Crayfish – These are present throughout the SAC and although unlikely given the weak hydrological connection, there is potential for the proposed development to have an impact upon the qualifying interest due to a potential deterioration in water quality during construction or operation.

Lamprey Species – The Brook, River and Sea Lamprey have been recorded from the Barrow catchment. Lamprey may be adversely impacted upon by sedimentation and water pollution. Although unlikely given the weak hydrological connection, there is potential for the proposed development to have an impact on this qualifying interest due to a potential deterioration in water quality during construction or operation.

Twaite Shad – The proposed development is located outside the current known distribution and favourable reference range for this qualifying interest. There are no records of this species within the vicinity of the proposed development, with the nearest record located approx.36kms south of the proposed site. It is therefore not anticipated that the proposed development would have direct or indirect negative impacts on this qualifying interest.

Atlantic Salmon – Salmon are anadromous migratory fish. It is probable that salmon are present in the vicinity of the site. Although unlikely given the weak hydrological connection, there is potential for the proposed development to have an impact on this qualifying interest due to a potential deterioration in water quality during construction or operation.

Water Courses of the Plain – The full distribution of this habitat and its sub-types within the River Barrow and River Nore SAC is unknown. Although unlikely given the weak hydrological connection, there is potential for the proposed development to have an impact on this qualifying interest due to a potential deterioration in water quality during construction or operation.

Assessment of Potential Impacts

Impacts on Water Quality

- 8.2.6. Potential impacts on aquatic habitats which can arise from surface water associated with the construction phase of the proposed development include increased silt levels in surface water run-off, inadvertent spillages of hydrocarbons from fuel and hydraulic fluid and spillage of cement. It is considered in the NIS that any such spills in the unlikely event of their occurrence, would be minor in the context of the available dilution in the River Barrow.
- 8.2.7. High levels of silt can impact fish species, in particular salmonids. Significant impacts on fish stocks could impact on otter due to a reduction in prey available. Aquatic plant communities may also be affected by increased siltation. Such run-off, if severe could impact adversely on the aforementioned qualifying species and habitats.
- 8.2.8. The proposed development site is located within the landholding of Reg.Ref.19/176 in an area permitted for recovery of soil and stones. As per Appendix 2 F.I drawing, the lattice tower foundation will be installed on imported material layer. As noted in Reg.Ref. 19/176 F.I drawing, the proposed development is above ground water levels.
- 8.2.9. The NIS notes that the sub-soil has been graded to maintain percolated stormwater within the site and the aggregate surface of the site facilitates such as percolation. All stormwater is to be challenged via an existing drainage ditch to a percolation area (soakaway) at the northeast of the proposed development site (i.e within blue line boundary Reg. Ref. 19/176 refers. A berm located to the northeast of the proposed development site, within this landholding prevents surface water from leaving the site and potentially flowing into the drainage ditch which connects to the Mortarstown Upper Stream and the River Barrow. It is also submitted, that the location of the lattice tower on the existing gravel surface which allows percolation, means the increase in surface water runoff during the operational phase will be negligible.
- 8.2.10. During construction, there will be concrete pouring onsite as well as limited vegetation removal and earthworks. Although small in scale, and 670m distant from the SAC, applying the precautionary principle as per the NIS a range of standard mitigation procedures will be employed during the construction to minimise the potential for localised impacts on water quality.

8.2.11. It is stated that following the implementation of mitigation measures and given the small scale of the proposed works and existing onsite drainage measures, that there will be no effects on water quality from the proposed development and it has been concluded that the proposed works will not have a significant adverse effect on the conservation objectives for any of qualifying species for the River Barrow and River Nore SAC. That surface water runoff during construction phase and operational phase will not have an adverse effect on the integrity of the said SAC and that there will be no significant impact on qualifying habitats and species for the SAC.

Mitigation Measures

8.2.12. Section 7 of the NIS provides the Construction phase mitigation measures. This includes construction best practice measures (of relevance in respect of any potential ecological impacts) will be implemented throughout the project, including the preparation and implementation of detailed method statements.

8.2.13. All personnel involved with the project will receive an on-site induction relating to operations and environmentally sensitive nature of Natura 2000 sites and to be aware of the precautions that are required and well as the precautionary measures to be implemented.

Protection of Water Quality

8.2.14. The employment of good construction management practices is to minimise the risk of pollution of soil, storm water run-off, seawater or groundwater. They have regard to various guidance notes relative to control and management of water pollution.

Mitigation measures in summary include the following:

- A 2m wide buffer zone will be established from the existing site drainage ditches. No construction works/activities including storage of materials will be allowed in this buffer zone.
- Topsoil storage is not expected. Excavated material will be backfilled on completion and the excess will be removed from the site. Details are given relative to the temporary storage of topsoil noting that such storage areas are to be enclosed with silt fencing.
- Works will be suspended during severe flood events or when such events are forecast.

- Should water be encountered during excavation works, it will be pumped to the onsite drainage ditches and diverted to the existing soakaways (Reg.Ref. 19/176) to the east of the development site.
- The local road L1003 adjacent to the proposed development site will be inspected regularly and cleaned if necessary.
- Welfare facilities shall be provided in accordance with legal requirements.
- Waste material shall be segregated and removed to licenced disposal areas.

Management of hydrocarbons and concrete

- Oil, petrol and other fuel containers will be double-skinned and bunded to be able to contain 110% volume to guard against potential accidental spills or leakages entering local watercourses linked to European sites.
- Details are given of bund specification to comply with Best Practice Guidelines. Construction materials are to be stored in a secure compound.
- A hydrocarbon spill kit is to be available on site at all times to deal with any hydrocarbon spill or hydraulic leakage.
- All vehicles and plant are to be inspected for fuel, oil and hydraulic fluid leaks. Suitable equipment to deal with spills is to be maintained on site.
- If refuelling is required on-site, dedicated paved and bunded fuel storage area are to be introduced on-site or fuelling will take place off site.
- Note is had to vehicle cleaning procedures.
- Machinery including handheld tools will not be washed in drainage ditches.
- To ensure that all areas where liquids are stored or cleaning is carried out are designated impermeable area that is isolated from the surrounding area.
- Concrete pouring will not take place during heavy rain. Pre-cast concrete will be used where possible. Raw or uncured waste concrete should be disposed of by removal off site.
- Washdown and washout of concrete transporting vehicles will not be permitted at the location of construction and shall take place at an appropriate facility off site or at the location where sourced.

In-combination impacts

- 8.2.15. As noted in Section 6.2 of the NIS other developments relevant to the proposed development and potential in-combination/cumulative impacts are listed in detail in Table 8. This includes reference to the River Basin Management Plan 2018-2021 and the Inland Fisheries Ireland Corporate Plan 2016-2020, NPWS Conservation Plans etc. It is submitted that the proposed works and subsequent discharge could theoretically have in-combination impacts on water quality during construction and operation.
- 8.2.16. Mitigation measures will be implemented during construction as well as water management measures during operation to effectively prevent impacts on water quality. These measures are standard and no impediments to the effective implementation has been identified. That the measures to be implemented will effectively prevent any significant discharges of hydrocarbons or excess levels of silt from the individual elements of the project thus ensuring that no in-combination impacts will occur.
- 8.2.17. In the absence of any significant potential impacts on the qualifying interests and conservation interests for the River Barrow and River Nore SAC and in the absence of significant impacts on its overall integrity, no potential in-combination impact from the proposed works has been identified.

AA Conclusion

- 8.2.18. 'The proposed development to provide a telecommunications support structure on this site has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.
- 8.2.19. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on the River Barrow and River Nore SAC. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of that site in light of its conservation objectives.
- 8.2.20. The Applicant's NIS concludes that there are no significant likely negative effects on the Natura 2000 site. Potential impacts from construction and operation will be removed with the prevention measures built-in to the project and the mitigation measures as set out in Section 7 of the NIS. It provides that it may be

concluded, in light of best scientific knowledge that the project will not have any significant effect on the integrity of the Natura 2000 site network, in particular on the River Barrow & River Nore SAC. That neither will it have any influence on the attainment of the conservation objectives.

8.2.21. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European site No. 002162 or any other European site, in view of the site's Conservation Objectives.

8.2.22. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

9.0 Recommendation

9.1. I recommend that permission be granted subject to the conditions below.

10.0 Reasons and Considerations

10.1.1. Having regard to the nature, extent and design of the proposed development, the provisions of the current Carlow County Development Plan, and relevant National Guidance, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential, visual or environmental amenities of the area. The applicant has provided sufficient information to demonstrate that the site is appropriate for a telecommunication installation and that there is a need for this structure in this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and as amended by further plans and particulars submitted on the 1st of June 2022 and by the further plans and particulars received by An Bord Pleánala on the 20th of September 2022, except as may otherwise be required in order to comply with the

following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

2. The transmitter power output, antenna type and mounting configuration shall be in accordance with the details submitted with this application and, notwithstanding the provisions of the Planning and Development Regulations 2001, and any statutory provision amending or replacing them, shall not be altered without a prior grant of planning permission.

Reason: To clarify the nature and extent of the permitted development to which this permission relates and to facilitate a full assessment of any future alterations.

- 3.(a) Surface water drainage arrangements for the proposed development shall comply with the requirements of the planning authority.
- (b) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site.

Reason: In the interest of public health and to prevent pollution.

4. Details of the proposed colour scheme for the telecommunications structure, ancillary structures and fencing shall be submitted to and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the visual amenities of the area.

5. Mature trees and hedgerows along the perimeter of the site shall be retained. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. No advertisement or advertisement structure shall be erected or displayed on the proposed structure or its appendages or within the curtilage of the site.

Reason: In the interest of the visual amenities of the area.

7. The access from the public road, internal access route and traffic arrangements serving the site, shall comply with the detailed standards of the planning authority for such works and any works shall be carried out at the developer's expense.

Reason: In the interests of pedestrian and traffic safety.

8. The mitigation and monitoring measures set out in Section 7 of the Natura Impact Statement submitted with the application shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: To protect the environment.

9. A management plan for the control of alien invasive species, including a monitoring programme, shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity and to prevent the spread of alien plant species.

10. A low intensity fixed red obstacle light shall be fitted as close to the top of the mast as practicable and shall be visible from all angles in azimuth. Details of this light, its location and period of operation shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public safety.

11. The construction of the development shall be managed in accordance with a Construction Environment Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of the intended construction practice for the proposed development, including hours of working, traffic management during the construction phase, noise management measures and off-site disposal of construction/demolition waste, as well as protective measures to be employed during the construction of the access track with respect to boundary hedgerow.

Reason: In the interests of public safety and amenity.

12. When the telecommunications structure and ancillary structures are no longer required, they shall be removed and the site shall be reinstated at the operator's expense in accordance with a scheme to be agreed in writing with the planning authority prior to the removal of the structures.

Reason: In the interest of visual amenity.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Angela Brereton
Planning Inspector

23rd of October 2023